ENERGY CHARTER SECRETARIAT

Brussels, November 2015

STATISTICS ON INVESTMENT DISPUTE SETTLEMENT UNDER THE ENERGY CHARTER TREATY

1) The Energy Charter Secretariat regularly monitors the implementation of the ECT, including the investor-state dispute settlement mechanism under Article 26 of the ECT.

2) The following infographics represent a statistical information based on publicly available information.

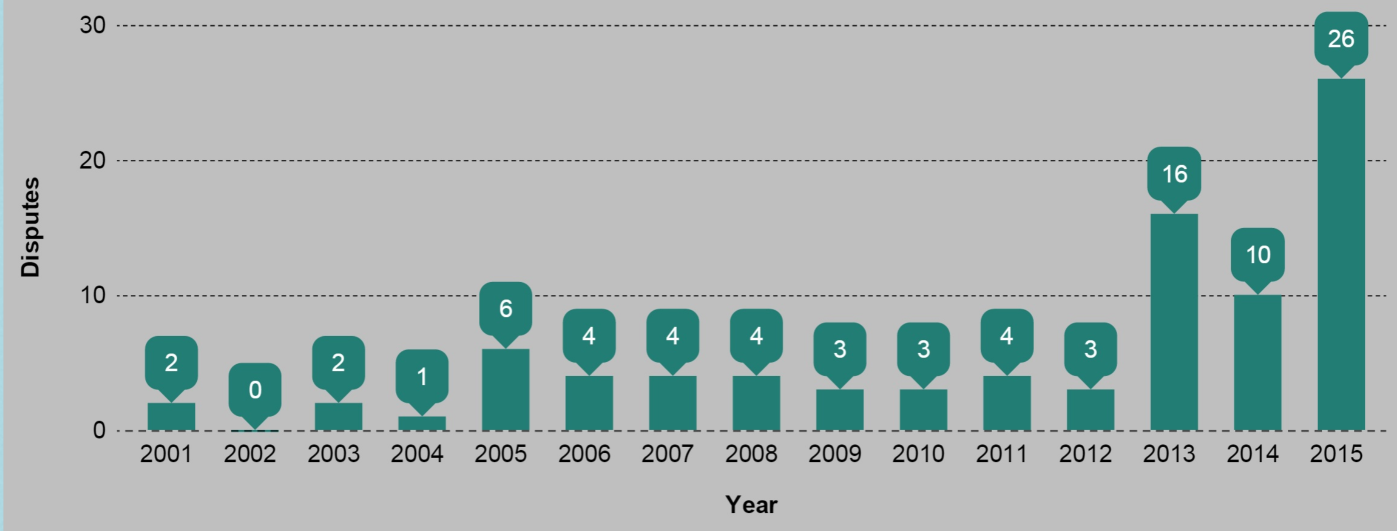
3) Investment arbitration under Article 26 of the Energy Charter Treaty has increased considerably since 2013 and has reached the number of 88 proceedings in November 2015.

Energy Charter Secretariat

Statistics on Investment Dispute Settlement under the ECT: Enforcing Regulatory Stability and Market Confidence in the Energy Sector

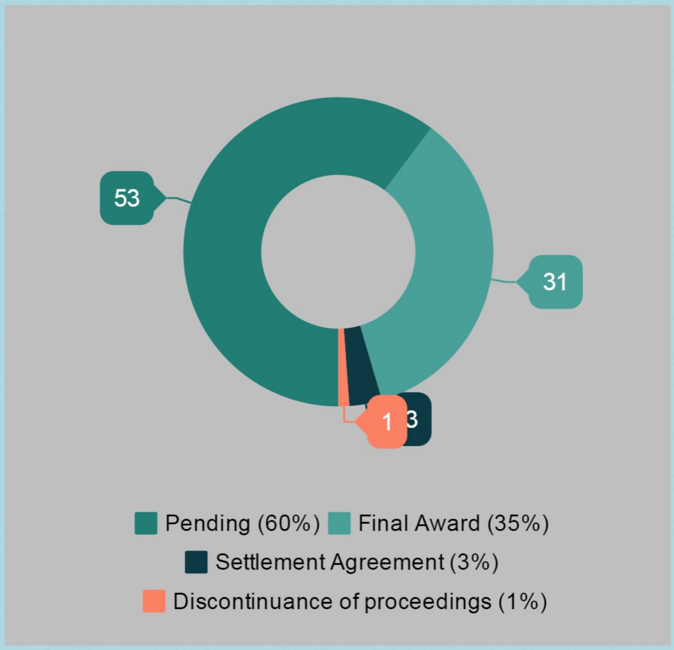
Brussels
November 2015

88
total number of ECT disputes



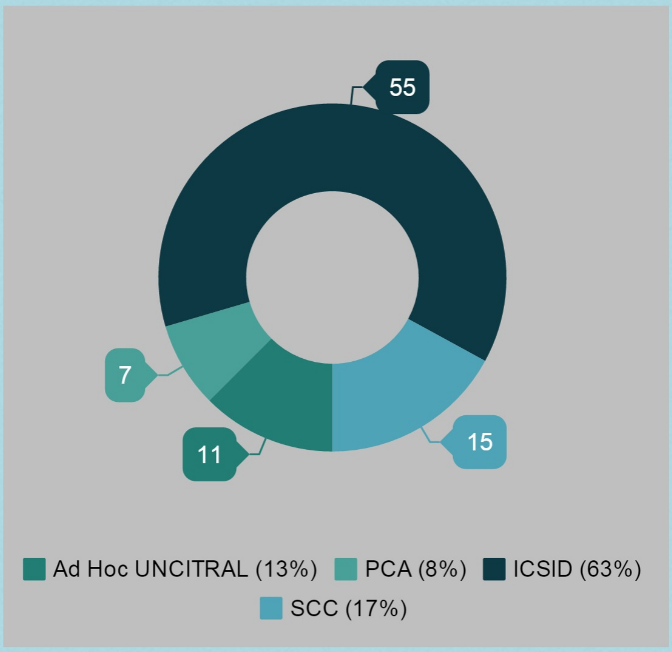
Number of investment disputes under the ECT

Between 2001 and 2015, the number of investment disputes under the Energy Charter Treaty has reached a total of 88 known cases. A peak in disputes has been registered in the years 2013, 2014 and 2015.



Status of Proceedings

Of all publicly known investment disputes under the ECT, 53 are pending, 31 have been concluded by arbitral award, while only 3 have been settled by the parties.



Arbitral institutions

Of all cases, 55 have been brought before ICSID, 15 before SCC, 11 before Ad Hoc UNCITRAL tribunals, and 7 before the PCA.

31 Final awards

23 Published awards

8 Not published

Number of Published Awards

Of all final arbitral awards, 23 are published .

8 Settled disputes

3 Settlement agreements

5 Settlement awards

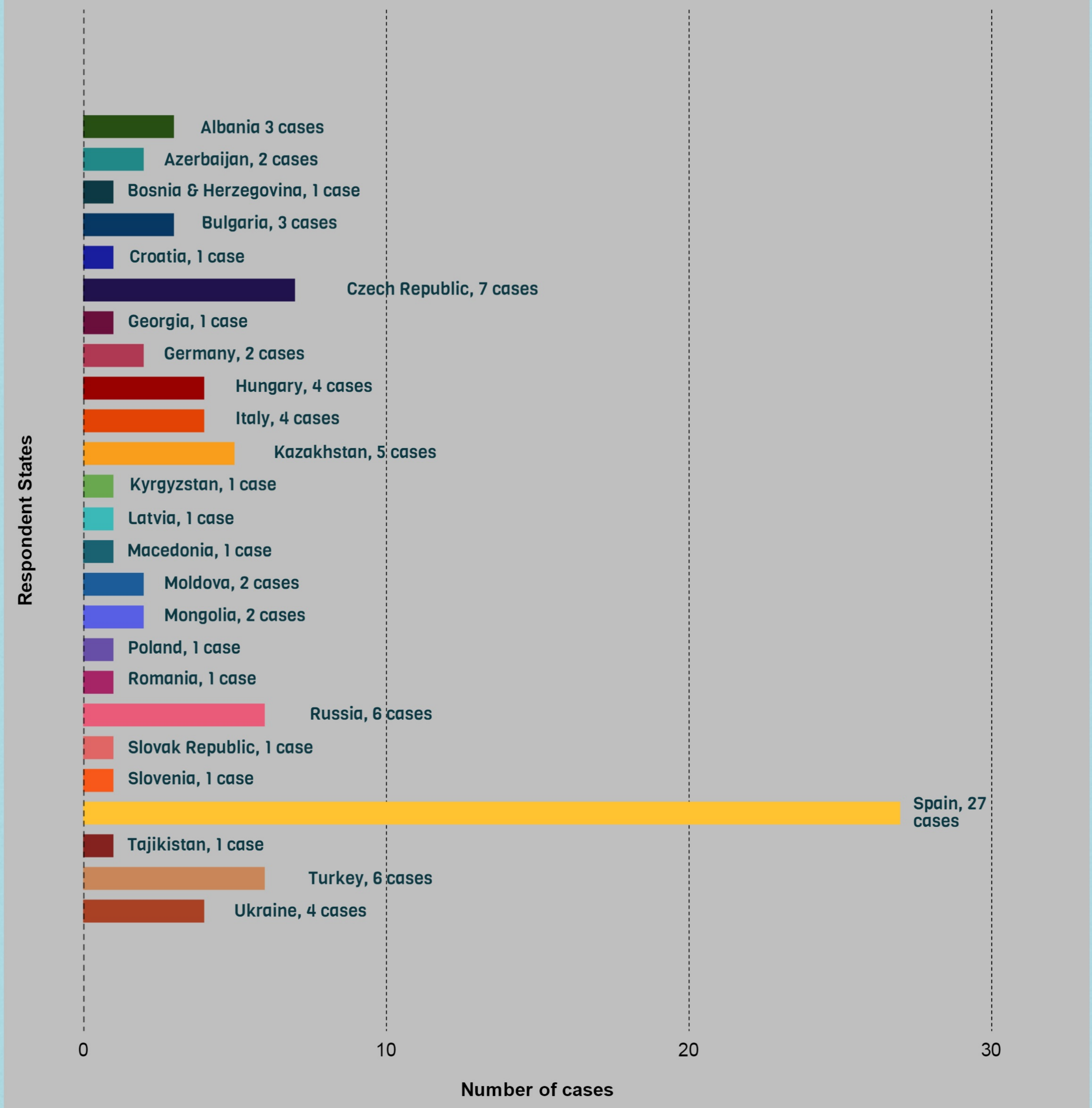
Settlements

Among the 8 settled cases, 5 have been embodied in an award.

51 AWARDS of which

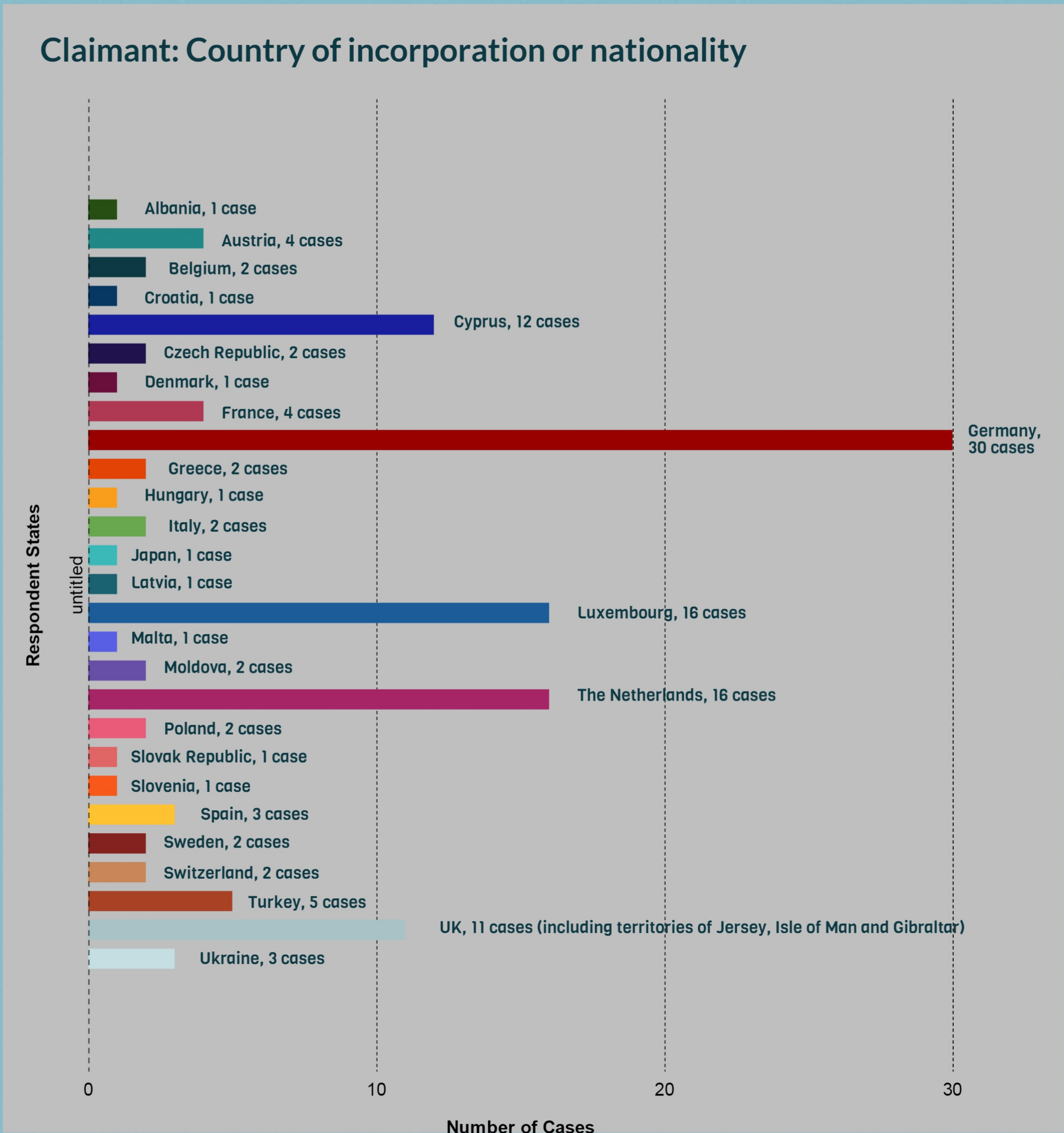
- **19 Unpublished**
  - 8 Final awards
  - 11 Interim/procedural awards
- **32 Published**
  - 1 Interim/procedural award
  - 8 Awards on jurisdiction
  - **23 Final awards**
    - 5 Final awards denying jurisdiction
    - **18 Final awards on merits**
      - 6 Final awards: no breach
      - 1 Final awards: breach and no damages
      - 11 Final awards: breach and damages

Respondent States

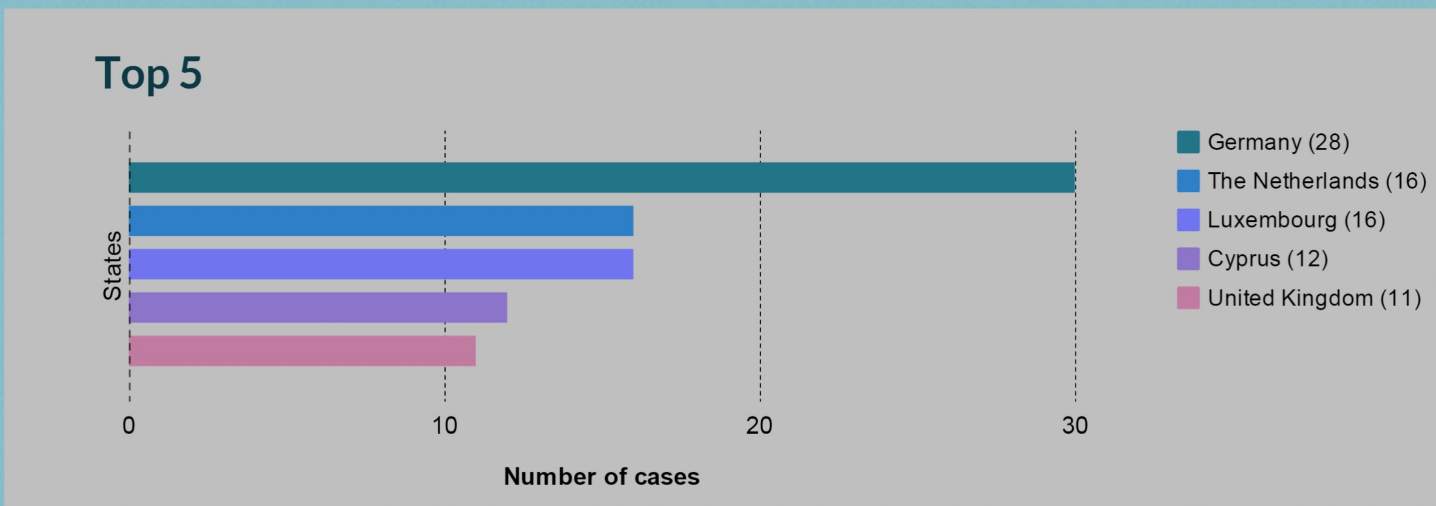


Top 5 Respondent States





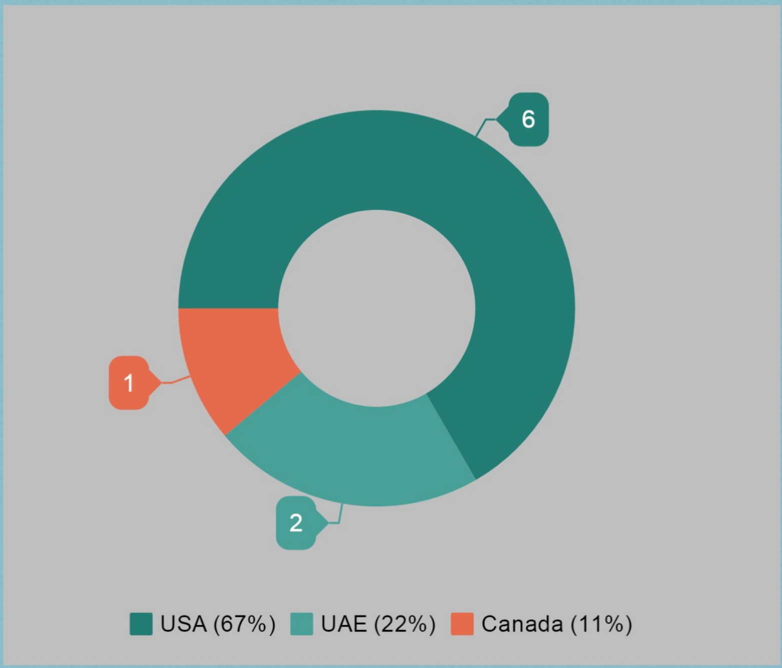
Claimant: Country of incorporation or nationality
Albania, 1 case
Austria, 4 cases
Belgium, 2 cases
Croatia, 1 case
Cyprus, 12 cases
Czech Republic, 2 cases
Denmark, 1 case
France, 4 cases
Germany, 30 cases
Greece, 2 cases
Hungary, 1 case
Italy, 2 cases
Japan, 1 case
Latvia, 1 case
Luxembourg, 16 cases
Malta, 1 case
Moldova, 2 cases
The Netherlands, 16 cases
Poland, 2 cases
Slovak Republic, 1 case
Slovenia, 1 case
Spain, 3 cases
Sweden, 2 cases
Switzerland, 2 cases
Turkey, 5 cases
UK, 11 cases (including territories of Jersey, Isle of Man and Gibraltar)
Ukraine, 3 cases
Respondent States
untitled
0
10
20
30
Number of Cases



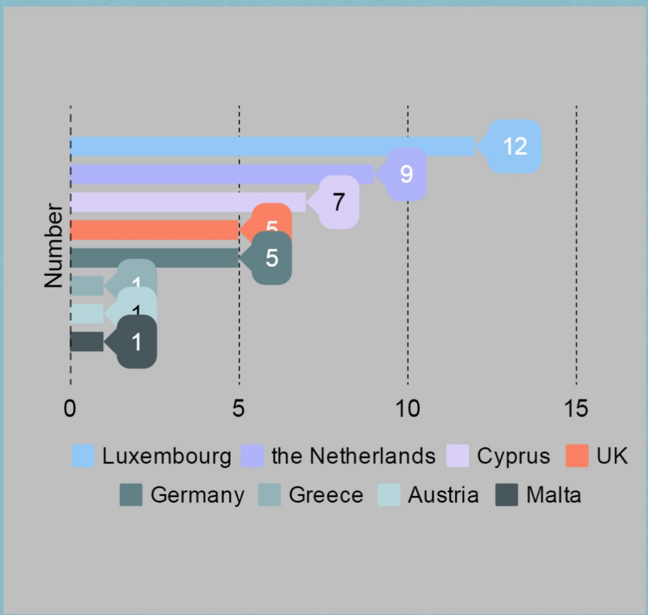
Top 5
Germany (28)
The Netherlands (16)
Luxembourg (16)
Cyprus (12)
United Kingdom (11)
States
0
10
20
30
Number of cases

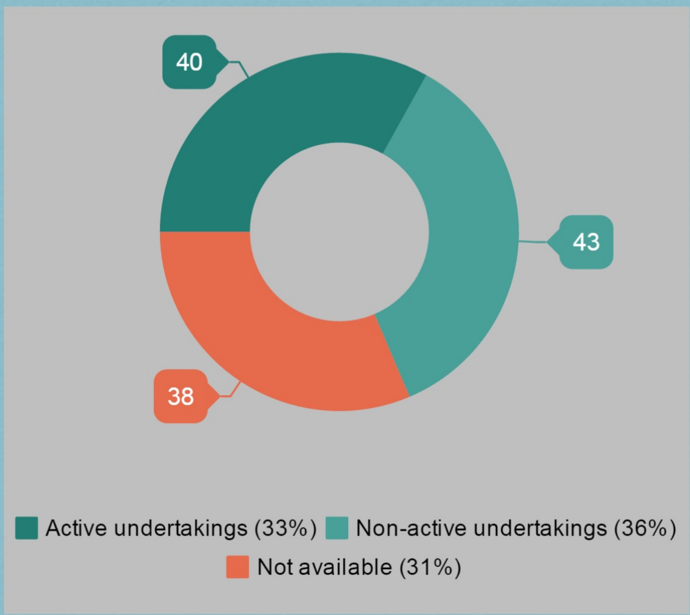
Treaty shopping*

Claimant is owned or controlled by non-ECT investor



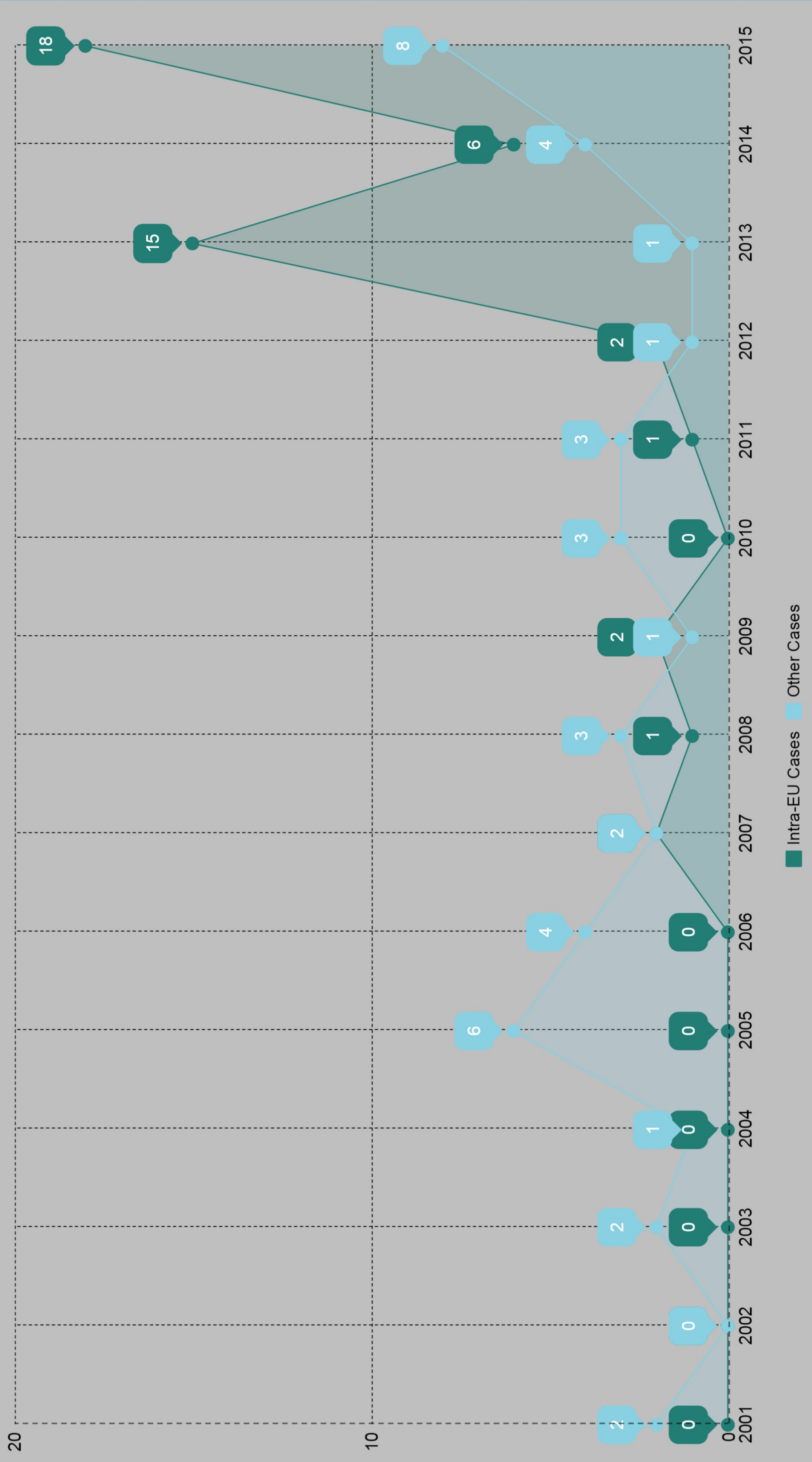
Claimant appears to have no substantial business in the country where it is incorporated



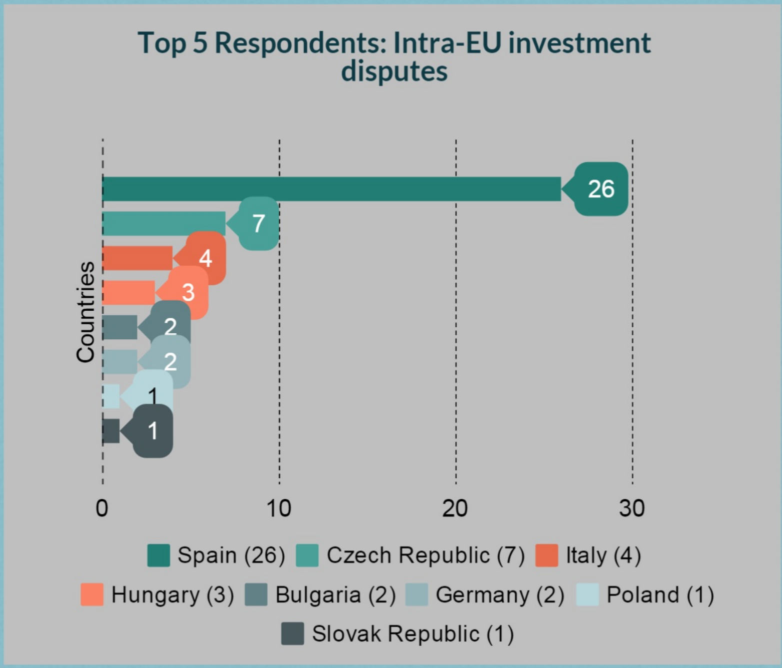


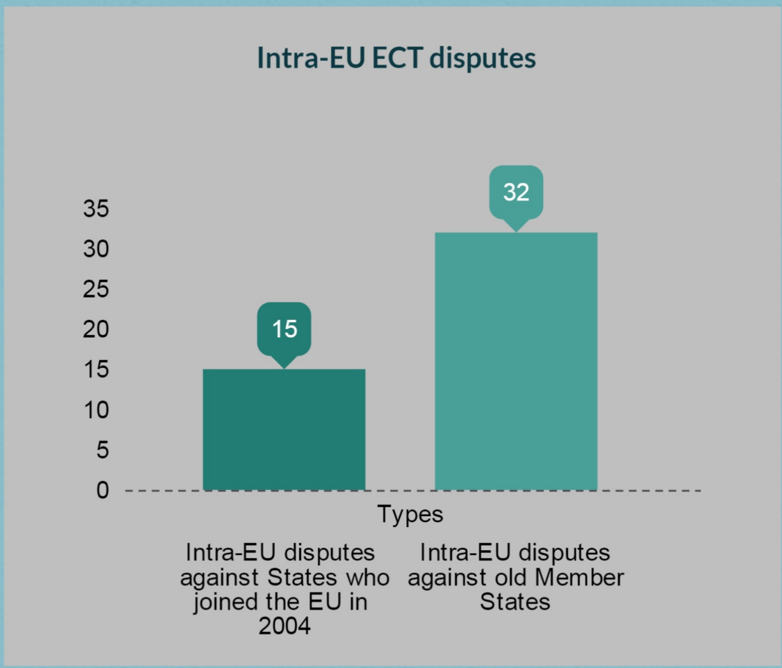
* DISCLAIMER: Data based on publicly available information

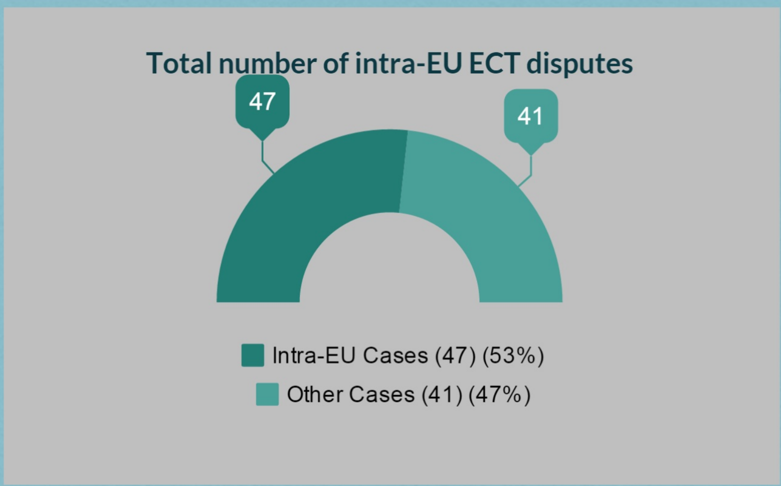
Focus: EU Investors against EU Member States

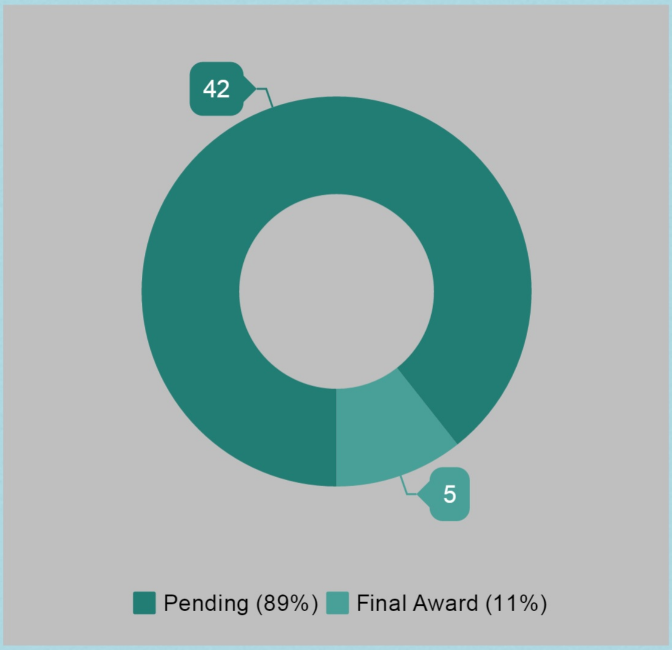


Focus: EU Investors against EU Member States (continued)



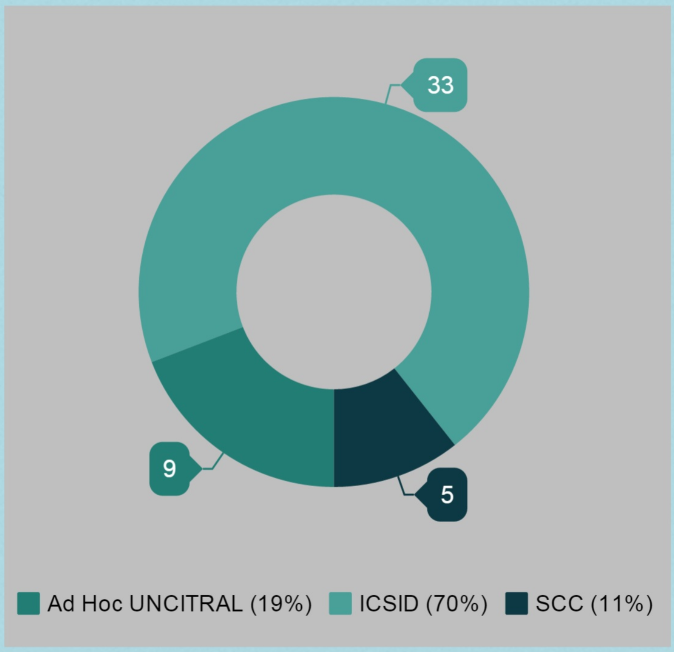






Status of Proceedings

Of all publicly known intra-EU investment disputes under the ECT, 42 are pending.



Arbitral institutions

Of all intra-EU cases, 33 have been brought before ICSID, 5 before SCC, and 9 before Ad Hoc UNCITRAL tribunals.

16 intra-EU AWARDS of which

13 Unpublished

- 3 Final awards
- 10 Interim/ procedural awards

3 Published

- 1 Awards on jurisdiction
- 2 Final awards

LIST OF ALL INVESTMENT DISPUTE SETTLEMENT CASES					
	CLAIMANT	**RESPONDENT**	**Reg.**	**Arb.**	**Subject matter**
1	AES Summit Generation Ltd.	Hungary	2001	ICSID	Electricity sale agreement
2	Nykomb Synergetics Technology Holding AB	Latvia	2001	SCC	Electricity sale agreement
3	Plama Consortium Ltd	Bulgaria	2003	ICSID	Oil refinery investment
4	Petrobart	Kyrgyzstan	2003	SCC	Gas delivery contract
5	Alstom Power Italia SpA, Alstom SpA	Mongolia	2004	ICSID	Thermal energy project, boiler rehabilitation
6	Yukos Universal Ltd	Russian Federation	2005	UNCITRAL (PCA)	Discriminatory measures and expropriation of investments
7	Hulley Enterprises Ltd	Russian Federation	2005	UNCITRAL (PCA)	Discriminatory measures and expropriation of investments
8	Veteran Petroleum Trust	Russian Federation	2005	UNCITRAL (PCA)	Discriminatory measures and expropriation of investments
9	Ioannis Kardassopoulos	Georgia	2005	ICSID	Oil and Gas distribution enterprise
10	Amto	Ukraine	2005	SCC	Nuclear Power Plant
11	Hrvatska Elektropriveda d.d. (HEP)	Slovenia	2005	ICSID	Nuclear Power Plant
12	Libananco Holdings Co. Limited	Turkey	2006	ICSID	Electricity generation and distribution concessions (expropriation)
13	Azpetrol International Holdings B.V., Azpetrol Group B.V. and Azpetrol Oil services Group B.V.	Azerbaijan	2006	ICSID	Oil and gas distribution, trade, storage and transportation enterprises
14	Barmek Holding A.S.	Azerbaijan	2006	ICSID	Electricity concession
15	Cementownia "Nowa Huta" S.A.	Turkey	2006	ICSID	Electricity concession

16	Europe Cement Investment and Trade	Turkey	2007	ICSID	Electricity concession
17	Liman Caspian Oil B.V/ NCL Dutch Investment B.V.	Kazakhstan	2007	ICSID	Exploration and extraction of hydrocarbons
18	Electrabel S.A.	Hungary	2007	ICSID	Electricity generation and distribution concessions (expropriation)
19	AES Summit Generation Ltd./ AES-Tisza Eromü Kft.	Hungary	2007	ICSID	Electricity generation
20	Mohammad Ammar Al-Bahloul	Tajikistan	2008	SCC	Hydrocarbon exploration licenses
21	Mercuria Energy Group Ltd	Poland	2008	SCC	Mandatory fuel reserves
22	Alapli Elektrik B.V.	Turkey	2008	ICSID	Electricity concession
23	Remington Worldwide Ltd	Ukraine	2008	SCC	Atomic energy
24	Vattenfall AB, Vattenfall Europe AG, Vattenfall Europe Generation AG & Co. KG	Germany	2009	ICSID	Construction of a coal-fired power plant and environmental protection measures (expropriation)
25	EDF International S.A.	Hungary	2009	UNCITRAL	Termination of long-term power purchases agreements
26	EVN AG	FYROM	2009	ICSID	Electricity distribution (expropriation)
27	AES Corporation and tau Power B.V	Kazakhstan	2010	ICSID	Power facilities and trading companies
28	Anatolie Stati, Gabriel Stati, Ascom S.A., Terra Raf Trans Traiding Ltd	Kazakhstan	2010	SCC	Oil Fields
29	Khan Resources B.V	Mongolia	2011	UNCITRAL	Uranium mining project
30	Türkiye Petrolleri Anonim Ortakligi	Kazakhstan	2011	ICSID	Oil exploration and production joint venture
31	The PV Investors	Spain	2011	UNCITRAL	Changes to the Solar

					Photovoltaic tariff regimes
32	Slovak Gas Holding BV	Slovak Republic	2012	ICSID	Natural Gas services
33	Vattenfall AB	Germany	2012	ICSID	Nuclear Power Plant
34	Charanne and Constructions Investments	Spain	2013	SCC	Changes to the Solar Photovoltaic tariff regimes
35	ČEZ	Albania	2013	UNCITRAL ad hoc	Albanian regulator´s decision of 21 of January to revoke the license of CËZ Shperndje
36	Antaris Solar GmbH et al	Czech Republic	2013	UNCITRAL ad hoc	Retroactive tax of 26 per cent on profits generated by solar plants that benefited from government incentives
37	EVN AG	Bulgaria	2013	ICSID	Changes to electricity pricing and compensation for public obligations in respect to renewable energy
38	Isolux Infrastructure Netherlands B.V.	Spain	2013	SCC	Legal reforms affecting the renewable energy sector
39	CSP Equity Investment S.a.r.l.	Spain	2013	SCC	Legal reforms affecting the renewable energy sector
40	RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à.r.l.	Spain	2013	ICSID	Legal reforms affecting the renewable energy sector
41	Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V.	Spain	2013	ICSID	Legal reforms affecting the renewable energy sector
42	MOL Nyrt.	Croatia	2013	ICSID	Gas pricing and distribution
43	Eiser Infrastructure Limited and Energia Solar Luxembourg S.a.r.l.	Spain	2013	ICSID	Legal reforms affecting the renewable energy sector

44	Natland Investment Group NV, Natland Group Limited, G.I.H.G. Limited, and Radiance Energy Holding S.A.R.L.	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
45	Voltaic Network GmbH	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
46	ICW Europe Investments Limited	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
47	Photovoltaik Knopf Betriebs-GmbH	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
48	WA Investments-Europa Nova Limited	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
49	Mr. Jürgen Wirtgen, Mr. Stefan Wirtgen, and JSW Solar (zwei)	Czech Republic	2013	UNCITRAL	Regulation of the photovoltaic sector
50	Masdar Solar & Wind Cooperatief U.A.	Spain	2014	ICSID	Legal reforms affecting the renewable energy sector
51	Blusun S.A., Jean-Pierre Lecorcier and Michael Stein	Italy	2014	ICSID	Photovoltaic energy generation project
52	NextEra Energy Global Holdings B.V. and NextEra Energy Spain Holdings B.V.	Spain	2014	ICSID	Legal reforms affecting the renewable energy sector
53	Infrared UK	Spain	2014	ICSID	Legal reforms affecting the renewable energy sector
54	Elektrogospodarstvo Slovenije - razvoj ininzeniring d.o.o.	Bosnia & Herzegovina	2014	ICSID	Thermal power plant project
55	Energoaliane SARL	Moldova	2010	UNCITRAL ad hoc	Supply of Electricity
56	State Enterprise Energorynok (state company)	Moldova	2012	SCC	Supply of Electricity

57	Cem Uzan	Turkey	2014	SCC	Electricity generation and distribution concessions
58	RENERGY S.à.r.l.	Spain	2014	ICSID	Legal reforms affecting the renewable energy sector
59	Albaniabeg Ambient Sh.p.k, M. Angelo Novelii and Construzioni S.r.l.	Albania	2014	ICSID	Waste management and renewable energy production project
60	ALPIQ	Romania	2014	ICSID	Termination of long-term energy delivery contracts
61	RWE Innogy GmbH and RWE Innogy Aersa S.A. U.	Spain	2014	ICSID	Legal reforms affecting the renewable energy sector
62	Stadtwerke Munchen GmbH, RWE Innogy GmbH et al.	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
63	STEAG GmbH	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
64	JKX Oil & Gas, *et.al.*	Ukraine	2015	SCC	Reimbursement of rental fees paid on oil and gas production in the country
65	Aktau Petrol Ticaret A.S. and Som Petrol Ticaret A.S.	Kazakhstan	2015	ICSID	Oil transportation and shipment
66	Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A.	Albania	2011	ICSID	Oil storage and distribution project
67	9REN Holding S.a.r.l	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
68	BayWa r.e. Renewable Energy GmbH and BayWa r.e. Asset Holding GmbH	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
69	Cube Infrastructure Fund SICAV and others	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
#	Matthias Kruck and others	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector

71	KS Invest GmbH and TLS Invest GmbH	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
72	JGC Corporation	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
73	Nabucco Gas Pipeline International GmbH in Liqu.	Turkey	2015	ICSID	Legal reforms affecting the renewable energy sector
74	Financial Performance Holdings BV	Russian Federation	2015	UNCITRAL ad hoc	not available
75	Luxtona Limited	Russian Federation	2015	UNCITRAL ad hoc	not available
76	Yukos Capital SARL	Russian Federation	2015	UNCITRAL ad hoc	not available
#	Cavalum SGPS, S.A.	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
78	E.ON SE, E.ON Finanzanlagen GmbH and E.ON Iberia Holding GmbH.	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
79	Greentech Energy Systems and Novenergia	Italy	2015	SCC	Legal reforms affecting the renewable energy sector
80	OperaFund Eco-Invest SICAV PLC and Schwab Holding AG.	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
81	Silver Ridge Power BV	Italy	2015	ICSID	Legal reforms affecting the renewable energy sector
82	ENERGO-PRO a.s.	Bulgaria	2015	ICSID	Electricity distribution
83	SolEs Badajoz GmbH	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
84	Belenergia S.A.	Italy	2015	ICSID	Legal reforms affecting the renewable energy sector

85	Littop Enterprises Limited, Bridgemont Ventures Limited and Bordo Management Limited	Ukraine	2015	SCC	measures alleged to harm the claimants' interests in Ukrnafta as well as other measures that are alleged to constrain the ability of Ukrnafta to freely sell its natural gas on the open market
86	Hydro Energy 1 S.à r.l., Hydroxana Sweden AB	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
87	Watkins Holdings S.à r.l. And others	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector
88	Landesbank Baden-Württemberg and others	Spain	2015	ICSID	Legal reforms affecting the renewable energy sector